

10 RAYMOND BUTLER,  
11 Plaintiff,  
12 v.  
13 WINNRESIDENTIAL CALIFORNIA  
14 L.P., and others,  
15 Defendants.

Case No. 21-cv-05875-NC

**PRETRIAL PREPARATION  
ORDER**

16 A pretrial conference is scheduled for February 8, 2023. A jury trial is scheduled to  
17 begin on February 27, 2023. This order prepares for the trial.

18 **I. MOTIONS IN LIMINE**

19 The parties must file their motions in limine by January 25, 2023, with responses  
20 due by February 1, 2023. No party may file a reply without leave of Court. The total  
21 number of pages each party submits for all motions and all responses must not exceed 15  
22 pages. While it is up to each party to decide how much space to allocate for their motions  
23 and how much for their responses, the parties must each stay within the 15-page limit (e.g.,  
24 a party can allocate 9 pages for their motions and 6 pages for their responses). The Court  
25 will hold a hearing on the motions in limine at the pretrial conference.

26 **II. JOINT TRIAL READINESS BINDER**

27 The parties are ordered to provide the Court with two copies of a Joint Trial  
28 Readiness Binder. The documents and binder are due by January 25, 2023, at 12:00 p.m.

1 at the San Jose Courthouse. The parties must also file a copy of the Joint Trial Readiness  
2 Binders in ECF. The Joint Trial Readiness Binders must each contain an index and copies  
3 of filed documents with an ECF header reflecting the item's docket number and filing date,  
4 including:

5 **A. Joint Statement of the Case**

6 The parties must submit a jointly agreed-upon summary of the case, not to exceed  
7 one page. This statement of the case will be read to the jury at jury selection. If the parties  
8 cannot agree on a statement, each party must submit its own one-page statement.

9 **B. Proposed Order Re: Trial Stipulations**

10 The Court expects that the parties will agree to a variety of stipulations regarding  
11 the conduct of the trial. A proposed order outlining all such stipulations must be presented  
12 to the Court.

13 **C. Witness Lists**

14 The parties must submit an updated list of all witnesses likely to be called at trial  
15 (other than solely for impeachment or rebuttal), with a brief statement following each  
16 name describing the substance of the testimony to be given and a time estimate of the  
17 direct and cross examinations. This information must be presented in chart format and  
18 organized by party. Witnesses who will be testifying as experts should be identified as  
19 such and included in a separate expert witness list (see below).

20 **D. Expert Witness Lists**

21 The parties must submit an updated list of all expert witnesses with a summary that  
22 clearly describes the expert's theories and conclusions, a curriculum vitae, and expert  
23 reports. Witnesses not included on the list may be excluded from testifying.

24 **E. Updated Exhibit Lists Annotated with Stipulations and Objections**

25 The parties must submit an updated list of all documents and other items to be  
26 offered as exhibits at trial (other than solely for impeachment or rebuttal), with a brief  
27 description of each exhibit's contents and the identity of each sponsoring witness. As  
28 applicable, the exhibit list must specify whether the parties stipulate to admit the exhibit or

1 the grounds for any objections to the exhibit. The exhibit list must also include an  
2 additional column so that the Court can track the date on which each exhibit is admitted.  
3 Prior to submitting the list, the parties must meet and confer and attempt to stipulate as to  
4 the admissibility of each exhibit. This information must be presented in chart format and  
5 organized numerically.

6 **F. Updated List of Discovery Excerpts**

7 The parties must list those excerpts from depositions, interrogatory answers, or  
8 responses to requests for admission (other than those solely for impeachment or rebuttal)  
9 likely to be used at trial. Prior to submitting the list, the parties must meet and confer and  
10 attempt to resolve any disagreements regarding designations or counter-designations. The  
11 parties must: (1) identify any remaining legal objections to the excerpts on the list itself,  
12 and (2) attach copies of the disputed excerpts in a separate appendix so that the Court can  
13 review the disputed materials. The parties must provide a single proposed order with each  
14 disputed designation to enable the Court to rule on whether permission to use each excerpt  
15 is granted, granted with modification, or denied.

16 **G. Proposed Voir Dire and Jury Questions**

17 The parties must include any proposed questions for the court-directed voir dire and  
18 a joint proposed jury questionnaire. If any questions are contested, each party must state  
19 the basis for proposing or opposing the question. In addition to including the proposed  
20 jury instructions in the binder, the parties must submit the proposed jury instructions in  
21 Word format to [ncpo@cand.uscourts.gov](mailto:ncpo@cand.uscourts.gov) by January 25, 2023.

22 **H. Proposed Verdict Form**

23 The parties must include a joint proposed verdict form with the questions arranged  
24 in a logical sequence. If the parties cannot agree on a verdict form, each party must submit  
25 its own proposed form.

26 **III. ELECTRONIC COPIES OF TRIAL DOCUMENTS**

27 The parties must send [ncpo@cand.uscourts.gov](mailto:ncpo@cand.uscourts.gov) an electronic copy, in Word format,  
28 of the following documents listed above: (1) Proposed Order Re: Trial Stipulations, and (2)

1 Proposed Order Re: Discovery Excerpts.

2 **IV. STIPULATIONS RE: ADMISSIBILITY**

3 The parties must make a good faith effort to stipulate to exhibits' admissibility. If  
4 stipulation is not possible, the parties must make every effort to stipulate to authenticity  
5 and foundation absent a legitimate objection.

6 **V. EXHIBITS**

7 Exhibits must be provided to the Court by January 25, 2023, at 12:00 p.m. at the  
8 San Jose Courthouse. The parties must provide two sets of exhibits in binders with  
9 exhibits marked, tabbed, and indexed. Exhibit binders may be delivered or mailed directly  
10 to Chambers in San Jose. The parties must coordinate with the Courtroom Deputy for  
11 other delivery.

12 Each exhibit in the binder must be pre-marked with an exhibit tag placed in the top  
13 right corner of the first page of a document. The exhibit tags must be a color other than  
14 white. A page of blank trial exhibit tags can be found on the Court's website. If an exhibit  
15 is a physical object (rather than a document), the parties should take a picture of the object  
16 and include the picture in the binder.

17 Upon the conclusion of the trial, each party must retain its exhibit through the  
18 appellate process. It is each party's responsibility to make arrangements with the Clerk of  
19 Court to file the record on appeal.

20 **VI. SCHEDULING OF JURY SELECTION**

21 The parties must notify the Court whether they wish to proceed with a jury or bench  
22 trial by January 25, 2023. If the parties decide to proceed with a jury trial, the jury will be  
23 selected on February 27, 2023. Opening statements will be on February 27, 2023, after  
24 jury selection. The first witness will be called on February 28, 2023.

25 **VII. TRIAL LIMITS**

27 The Court anticipates giving each side a total of 8 hours to present its case. This  
28 includes all aspects of trial (e.g., objections, examinations) except jury selection.

1                   **VIII. MISCELLANEOUS**

2                   **A. Trial Transcripts**

3                   If a party wishes to order a trial transcript, the order must be placed by January 25,  
4                   2023. Instructions on how to file a transcript order using Form CAND-435 are available  
5                   at: [www.cand.uscourts.gov/transcripts](http://www.cand.uscourts.gov/transcripts).

6                   **B. Electronic Equipment**

7                   If a party wishes to use electronic equipment or other large items, the party must file  
8                   a request and proposed order with the Court by January 25, 2023. Equipment not provided  
9                   by the Court must be tested in the courtroom prior to trial. Arrangements may be made  
10                  with the Courtroom Deputy, Lili Harrell, at (408) 535-5343.

11                  **C. Jury Orientation Video**

12                  The Northern District of California requires potential jurors to watch an orientation  
13                  video before they are sent to the courtroom for voir dire. The Court encourages the parties  
14                  to watch the orientation video at: [https://www.cand.uscourts.gov/attorneys/unconscious-](https://www.cand.uscourts.gov/attorneys/unconscious-bias-video-for-potential-jurors/)  
15                  [bias-video-for-potential-jurors/](https://www.cand.uscourts.gov/attorneys/unconscious-bias-video-for-potential-jurors/).

16                  **D. Questions from Jury**

17                  If the parties select a jury trial, the Court will give an instruction to allow questions  
18                  from the jury in accordance with Ninth Circuit Model Instruction 1.15 (“Questions to  
19                  Witnesses by Jurors”).

20                  **IT IS SO ORDERED.**

21                  Dated: May 2, 2022

22                    
23                  NATHANAEL M. COUSINS  
24                  United States Magistrate Judge